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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,093	07/15/2005	Tommy Rydberg	1175/73009	9072
<div>7590 09/03/2008</div> <div>Donald S Dowden Cooper & Dunham 1185 Avenue of the Americas New York, NY 10036</div>				
<div>EXAMINER</div> <div>SIMONE, CATHERINE A</div>				
<div>ART UNIT</div> <div>1794</div>		<div>PAPER NUMBER</div>		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/507,093

Applicant(s)

RYDBERG, TOMMY

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/US)
- Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 3 recites the broad recitation "in the range of 0.10 to 0.60", and the claim also recites "preferably 0.15 to 0.50" and "especially 0.22 corresponding to a = 0.5 mm and b=2.25 mm", which both are narrower statements of the range/limitation. Additionally, claim 4 recites the broad recitation "in

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the range of 0.09 to 0.20”, and the claim also recites “preferably is approximately 0.15 corresponding to $\lambda_1 = 3.5$ mm and $\lambda_2 = 23.5$ mm”, which is the narrower statement of the range/limitation. Furthermore, claim 5 recites the broad recitation “preferably between 0.05 and 0.3 mm”, and the claim also recites “such as 0.1 mm”, which is the narrower statement of the range/limitation. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nordstrom (US 4,500,381) in view of Kirsch (US 5,772,111).

6. Nordstrom teaches a packaging material of the corrugated cardboard type made by gluing together a plane paper layer (Fig. 4, layer 20) and an auxiliary paper layer (Fig. 4, layer 16) with waves presenting an amplitude perpendicular to the plane of propagation of the auxiliary paper layer, and a second plane paper layer (Fig. 4, layer 20) being arranged below the auxiliary paper layer and a second auxiliary paper layer (Fig. 4, layer 16) arranged below the second plane paper layer and further a third plane paper layer (Fig. 4, layer 20).

However, Nordstrom fails to specifically teach the wave tops forming a system of substantially parallel waves presenting an amplitude in the plane of propagation of the auxiliary paper layer and also the waves of the two auxiliary paper layers, which present

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an amplitude perpendicular to the direction of propagation of the two auxiliary paper layers, having a phase displacement between the waves of these layers in the range of $\pi/4$ to $\pi/3$.

Kirsch teaches a container structure made of paper including a corrugated medium having a plurality of longitudinal waves wherein the tops of the waves form a system of substantially parallel waves presenting an amplitude in the plane of propagation of the corrugated medium (Figs. 1B and 1C; Figs. 6 and 7) for the purpose of providing excellent thermal insulating characteristics as well as strength and rigidity to prevent longitudinal deformation, and resistance to folding and bending across the width of the container, and further provide the container with an enhanced inherent ease of gripping and with an outer layer highly receptive to high quality, low cost printing (col. 1, lines 47-53 and 61-63).

Nordstrom and Kirsch are analogous arts, since both teach containers being made of paper including corrugated mediums.

Thus, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the corrugated sheet of the multiply paperboard in Nordstrom to have the tops of the waves form a system of substantially parallel waves presenting an amplitude in the plane of propagation of the corrugated sheet as suggested by Kirsch in order to form a container having excellent thermal insulating characteristics as well as strength and rigidity to prevent longitudinal deformation, and resistance to folding and bending across the width of the container, and further provide the container with an enhanced inherent ease of gripping and with an outer layer highly receptive to high quality, low cost printing.

Furthermore, Nordstrom teaches offsetting a pair or more of the corrugated sheets/plies longitudinally one from the other so that their longitudinal end margins are offset from each other by an amount calculated to provide a splice joint for either a double ply or triple ply paperboard product (col. 6, lines 11-17 and 49-54). An ordinarily skilled artisan would have recognized using a phase displacement in the range of $\pi/4$ to $\pi/3$ between the waves of the corrugated sheets in Nordstrom was a workable option from these teachings in Nordstrom, since Nordstrom teaches offsetting a pair or more of the corrugated sheets/plies longitudinally one from the other so that their longitudinal end margins are offset from each other by an amount calculated to provide a splice joint for either a double ply or triple ply paperboard product. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the paperboard in Nordstrom to have the corrugated plies offset longitudinally one from the other providing a phase displacement in the range of $\pi/4$ to $\pi/3$ between the waves of the corrugated sheets in order to provide a sufficient splice joint for a container construction. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the paperboard in Nordstrom to have the corrugated plies offset longitudinally one from the other providing a phase displacement in the range of $\pi/4$ to $\pi/3$ between the waves of the corrugated sheets, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. *MPEP 2144.05 (II)*.

Regarding claim 2, Nordstrom fails to specifically teach the waves of the auxiliary layers being of a serrated shape, i.e. triangular waves, with tops or bottoms

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slightly rounded or of a square shape, i.e. square waves. It would have been an obvious matter of design choice to change the shape of the waves in Nordstrom, since such a modification would have involved a mere change in the shape of the waves. A change in shape is generally recognized as being within the level of ordinary skill in the art, absent unexpected results. MPEP 2144.04 (IV). One of ordinary skill in the art would have been motivated to change the waves of the auxiliary layers in Nordstrom to be either square shape or triangular shape in order to change the strength and rigidity of the paperboard. It is desirable to change the strength and rigidity of the paperboard in Nordstrom for a container construction in order to make the container more appealing to the consumer.

With regard to claim 3, the mathematical functional expression is a measurement method and/or condition which does not distinguish the claimed article to be different in a structural form than the presented prior art. While this limitation is being given consideration, the claims themselves are directed towards an article and not a method of how the article is being measured. The measurement method does not provide a difference of how the claimed article is different structurally than that presented by the prior art.

Furthermore with regard to claim 3 and claim 4, the combination of Nordstrom and Kirsch fail to specifically teach the ratio a/b of the amplitudes for the two types of waves being in the range of 0.10 to 0.60, preferably 0.15 to 0.50, especially corresponding to $a = 0.5$ mm and $b = 2.25$ mm, and the ratio of λ_1/λ_2 of the wavelengths for the two types of waves being in the range of 0.09 to 0.20 and preferably being approximately 0.15 corresponding to $\lambda_1 = 3.5$ mm and $\lambda_2 = 23.5$ mm. However, the combination of Nordstrom and Kirsch teach the structure of the presently claimed

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packaging material of cardboard as shown above. One of ordinary skill in the art would have recognized that using the specific ratios as recited in claims 3 and 4 for the amplitude and wavelength would be a workable option from the teachings in both Nordstrom and Kirsch, since the combination of Nordstrom and Kirsch teach a paperboard packaging material having the same structure as that of the claimed packaging material, which is being used for the same purpose, i.e. packaging. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the structure of the packaging material taught by Nordstrom and Kirsch to have a ratio a/b of the amplitudes for the two types of waves being in the range of 0.10 to 0.60, preferably 0.15 to 0.50, especially corresponding to $a = 0.5$ mm and $b = 2.25$ mm, and the ratio of λ_1/λ_2 of the wavelengths for the two types of waves being in the range of 0.09 to 0.20 and preferably being approximately 0.15 corresponding to $\lambda_1 = 3.5$ mm and $\lambda_2 = 23.5$ mm in order to provide a strong and rigid packaging material.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the structure of the packaging material taught by Nordstrom and Kirsch to have a ratio a/b of the amplitudes for the two types of waves being in the range of 0.10 to 0.60, preferably 0.15 to 0.50, especially corresponding to $a = 0.5$ mm and $b = 2.25$ mm, and the ratio of λ_1/λ_2 of the wavelengths for the two types of waves being in the range of 0.09 to 0.20 and preferably being approximately 0.15 corresponding to $\lambda_1 = 3.5$ mm and $\lambda_2 = 23.5$ mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. *MPEP 2144.05 (II)*.

Regarding claim 6, note in Nordstrom a starch-based glue is used for the lamination of the layers (col. 3, lines 10-11).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nordstrom in view of Kirsch as applied to claims 1 and 2 above, and further in view of Goldstein et al. (US 3,290,205).

Nordstrom and Kirsch teach the presently claimed packaging material as shown above. However, Nordstrom fails to specifically teach the plane paper layers and the auxiliary paper layers being of the same thickness, preferably between 0.05 and 0.3 mm and the auxiliary paper layers having a weight of 50 to 250 g/m². Goldstein et al. teach corrugated fiberboard for use in packaging having plane paper layers and corrugated paper layers being of the same thickness (Fig. 2), preferably between 0.05 and 0.3 mm (col. 15, lines 15-30), and the corrugated paper layers having a weight of 50 to 250 g/m² (col. 15, lines 27-30) for the purpose of forming paperboard having increased strength and rigidity and resistance to puncture (col. 6, lines 16-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the multi-ply paperboard in Nordstrom to have the plane paper layers and corrugated paper layers being of the same thickness, preferably between 0.05 and 0.3 mm, and the corrugated paper layers having a weight of 50 to 250 g/m² as suggested by Goldstein et al. in order to form a paperboard having increased rigidity and strength and an increased resistance to puncture.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents are cited for further teachings of structures similar to that of the claimed packaging material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571) 272-1501. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine Simone/
Examiner, Art Unit 1794

August 28, 2008

/KEITH D. HENDRICKS/
Supervisory Patent Examiner, Art Unit 1794